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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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| LOWELL LABERTEW, an individual; and SANDRA LABERTEW, an individual,<br><br>Plaintiffs,<br><br>vs.<br><br>C&R FINANCIAL, INC., an entity of unknown form; GOLDEN EMPIRE MORTGAGE, INC., dba CIB FUNDING, a California Corporation; RAYMOND JACOB ROSZKOWICZ, an individual; RICK WILKES, an individual; BEVERLEE WILKES, an individual; and DOES 1-10, inclusive,<br><br>Defendants.<br>_______________<br>RICK WILKES, an individual; and BEVERLEE WILKES, an individual,<br><br>Cross-Complainant,<br><br>vs.<br><br>C&R FINANCIAL, INC., an entity of unknown form; GOLDEN EMPIRE MORTGAGE, INC., dba CIB FUNDING, A California Corporation; RAY ROSZKOWICZ, an individual; LOWELL LABERTEW, an individual; SANDRA LABERTEW, an individual; and ROES 1-50,<br><br>Cross-Defendants. | CASE NO. 07CV2092W (LSP)<br><br>**COUNTER-DEFENDANTS LOWELL LABERTEW AND SANDRA LABERTEW'S ANSWER TO COUNTER-CLAIM**<br><br>**Date Action Filed: October 31, 2007** |

GOLDEN EMPIRE MORTGAGE, INC., a California Corporation dba CIB FUNDING,

Counter-claimants,

vs.

LOWELL LABERTEW, an individual; SANDRA LABERTEW, an individual; C&R FINANCIAL INC., a resigned California corporation; RAYMOND JACOB ROSKOWICZ, an individual; RICK WILKES, an individual; BEVERLEE WILKES, an individual; and MOES 1-10, inclusive,

Counter-defendants.

Counter-Defendants Lowell Labertew and Sandra Labertew ("Counter-Defendants"), on behalf of themselves only, admit and deny the allegations of the Counter-Claim as follows:

1. Answering paragraph 1, these answering Counter-Defendants are informed and believe and thereon accept Counter claimant's allegation as true.

2. Answering paragraph 2, these answering Counter-Defendants Counter claimant's allegation as true.

3. Answering paragraph 3, these answering Counter-Defendants are informed and believe and thereon accept Counter claimant's allegation that C&R FINANCIAL, INC. ("C&R")at all times mentioned in the Counterclaim was a California corporation doing business in Riverside County and San Diego County, California, but these answering Counter-Defendants either deny or have no information and belief concerning the other allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every other allegation contained therein.

4. Answering paragraph 4, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

5. Answering paragraph 5, these answering Counter-Defendants are informed and believe and thereon accept Counter claimant's allegation that RICK WILKES and BEVERLEE WILKES (collectively "WILKES") were doing business in San Diego County, California, but these answering Counter-Defendants either deny or have no information and belief concerning the other allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every other allegation contained therein.

6. Answering paragraph 6, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

7. Answering paragraph 7, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

8. Answering paragraph 8, these answering Counter-Defendants admit that this District Court has jurisdiction, but these answering Counter-Defendants either deny or have no information and belief concerning the other allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every other allegation contained therein.

9. Answering paragraph 9, these answering Counter-Defendants admit that Counter

claimant's allegation as true.

10. Answering paragraph 10, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

11. In answering paragraph 11, Counter-Defendants refer to their responses to paragraphs 1 through 10 herein and by reference makes them a part hereof.

12. Answering paragraph 12, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

13. In answering paragraph 13, Counter-Defendants refer to their responses to paragraphs 1 through 10 herein and by reference makes them a part hereof.

14. Answering paragraph 14, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

15. In answering paragraph 15, Counter-Defendants refer to their responses to paragraphs 1 through 10 herein and by reference makes them a part hereof..

16. Answering paragraph 16, these answering Counter-Defendants have no information and belief concerning the allegations contained therein and basing their denial on that ground, deny generally and specifically, in the conjunctive and disjunctive, each and every allegation contained therein.

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**AFFIRMATIVE DEFENSES**

Counter-Defendants Lowell Labertew and Sandra Labertew hereby allege the following separate affirmative defenses to Counter claimant's Counter Claim.

**FIRST AFFIRMATIVE DEFENSE**

**(Failure To State a Cause of Action)**

As a first, separate and affirmative defense, these answering Counter-Defendants allege that the Counter-Claim and each cause of action therein fails to state facts sufficient to constitute a cause of action against these answering Counter-Defendants.

**SECOND AFFIRMATIVE DEFENSE**

**(No Damages)**

As a second, separate and affirmative defense, these answering Counter-Defendants allege that Counter-Claimant suffered no damages under the laws of the State of California.

**THIRD AFFIRMATIVE DEFENSE**

**(Laches)**

As a third, separate and affirmative defense, these answering Counter-Defendants allege that Counter Claimant unreasonably delayed in bringing its Counter Claim, and/or each and every cause of action contained therein, to the prejudice of these answering Counter-Defendants, and therefore, the Counter Claim is barred under the doctrine of laches.

**FOURTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

As a fourth, separate and affirmative defense, these answering Counter-Defendants allege that Counter-Claim is barred from seeking relief, at law or equity, under the doctrine of unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

As a fifth, separate and affirmative defense, these answering Counter-Defendants allege that Counter Claim is estopped from asserting any and all claims in the Counter Claim against these answering Counter-Defendants based upon statements, actions, representations, and conduct of Counter Claimant.

**SIXTH AFFIRMATIVE DEFENSE**

**(Waiver)**

As a sixth, separate and affirmative defense, these answering Counter-Defendants allege that Counter Claimant has waived any and all claims in the Counter Claim against these answering Counter-Defendants based upon statements, actions, representations, and conduct of Counter Claimant.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Acts and/or Omissions of Counter Claimant)**

As a seventh, separate and affirmative defense, these answering Counter-Defendants allege that any and all events and happenings, injuries, loss, damage and expenditures referred to in the Counter Claimant were directly and proximately caused and contributed to by acts and/or omissions of Counter Claimant including, *inter alia*, lack of due diligence, and investigation by Counter Claimant.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Acts of Third Parties)**

As a eighth, separate and affirmative defense, these answering, Counter-Defendants allege that at all times mentioned in the Counter Claimant, the injuries and damages alleged therein were either wholly or in part proximately caused by the acts and fault of persons, firms, corporations, or entities other than these answering Counter-Defendants.

**NINTH AFFIRMATIVE DEFENSE**

**(Comparative Fault of Counter Claimant)**

As a ninth, separate and affirmative defense, these answering Counter-Defendants allege that to the extent Counter Claimant was damaged as alleged in the Counter Claim, Counter Claimant's damages were proximately caused by the negligence, carelessness or intentional misconduct of Counter Claimant and Counter Claimant's damages would be totally barred or reduced by their comparative fault.

**TENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

As a tenth, separate and affirmative defense, these answering Counter-Defendants allege that Counter Claimant failed to exercise reasonable care and diligence to mitigate any alleged damages, if any, they have suffered (which these answering Counter-Defendants deny, and makes such assumption only for the purpose of this defense) and have further unreasonably delayed in the submission of any claims for any alleged losses.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Proximate Cause)**

As a eleventh, separate and affirmative defense, these answering Counter-Defendants allege that even assuming *arguendo* that these answering Counter-Defendants have acted or failed to act as alleged in the Counter Claim (which these answering Counter-Defendants deny, and makes such assumption only for the purpose of this defense), such acts or failures to act are not the proximate cause of any damage alleged in the Counter Claim.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Violations of Federal and State Laws)**

As a twelfth, separate and affirmative defense, these answering Counter-Defendants allege Counter Claimant violated federal and/or state laws, including California Finance Laws.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Setoff)**

As a thirteenth, separate and affirmative defense, these answering Counter-Defendants allege that these answering Counter-Defendants have incurred damages by reason of Counter-Claimant's conduct and have a right to a setoff/offset of any amount of monies owed or due to Counter-Claimant, if any, by way of damages or otherwise.

**FOURTEEN AFFIRMATIVE DEFENSE**

**(Excuse of Performance)**

As a fourteenth, separate and affirmative defense, these answering Counter-Defendants allege that Counter-Claimant has engaged in conduct that excuses any duties, which might have been owed by these Counter-Defendants pursuant to any agreement between the parties or any person or entity referred to in the Counter Claim.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Reservation of Additional Defenses)**

As a fifteenth, separate and affirmative defense, these answering Counter-Defendants are informed and believe and based thereon allege that there may be additional affirmative defenses available to them, of which they are not fully aware and therefore reserve the right to insert additional defenses at some future date in the event that facts or other information is received and said defenses become ascertained and known.

WHEREFORE, Counter-Defendants LOWELL LABERTEW and SANDRA LABERTEW prays:

1. That Counter-Claimant takes nothing by its Counter-Claim;
2. For dismissal of the Counter-Claim with prejudice;

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3. For Attorney's Fees and costs of suit incurred; and

4. For such other and further relief as the Court may deem just and proper.

Date: April 10, 2008

/s/ Deborah L. Raymond
Deborah L. Raymond, Esq.
Attorney for Counter-Defendants,
Lowell Labertew and Sandra Labertew